

**STANDARD APPLICATION**  
**Harford County**  
**Board of Appeals**  
Bel Air, Maryland 21014

MAR 21 2007

Case No. 5594  
Date Filed 3/14/07  
Hearing Date \_\_\_\_\_  
Receipt: \_\_\_\_\_  
Fee NA

Shaded Areas for Office Use Only

**Type of Application**

- ☐ Administrative Decision/Interpretation  
☐ Special Exception  
☐ Use Variance  
☐ Change/Extension of Non-Conforming Use  
☐ Minor Area Variance  
☐ Area Variance  
☐ Variance from Requirements of the Code  
☐ Zoning Map/Drafting Correction

**Nature of Request and Section(s) of Code** \_\_\_\_\_

CASE 5594 MAP 40 TYPE Variance

ELECTION DISTRICT 03 LOCATION 1030 N. Rock Spring Road, Bel Air

BY Harford County Sheriff/Harford County Government

Appealed because a variance pursuant to Sec. 267-41D(5) of the Harford County Code to construct an addition that impacts the Natural Resource District requires approval by the Board.

**NOTE:** A pre-conference is required for property within the NRD/Critical Area or requests for an Integrated Community Shopping Center, a Planned Residential Development, mobile home park and Special Exceptions.

**Applicant/Owner (please print or type)**

Name Harford County Sheriff/Harford County Government Phone Number 410-836-5400

Address 220 S. Main Street Bel Air MD 21014  
*Street Number Street City State Zip Code*

Co-Applicant \_\_\_\_\_ Phone Number \_\_\_\_\_

Address \_\_\_\_\_  
*Street Number Street City State Zip Code*

Contract Purchaser \_\_\_\_\_ Phone Number \_\_\_\_\_

Address \_\_\_\_\_  
*Street Number Street City State Zip Code*

Attorney/Representative Karen J. Kruger Phone Number 410-638-3205

Address 220 S. Main Street Bel Air MD 21014  
*Street Number Street City State Zip Code*

## Land Description

Address and Location of Property 1030 N. Rock Spring Road, at intersection with U.S. Rt. 1 By-Pass

Subdivision \_\_\_\_\_ Lot Number 68

Acreage/Lot Size 12.08 Election District 3 Zoning \_\_\_\_\_

Tax Map No. 40 Grid No. 3F Parcel \_\_\_\_\_ Water/Sewer: Private ☐ Public ☒

List ALL structures on property and current use: Harford County Detention Center - correctional housing

Estimated time required to present case: 30 minutes

If this Appeal is in reference to a Building Permit, state number \_\_\_\_\_

Would approval of this petition violate the covenants and restrictions for your property? n/a

Is this property located within the County's Chesapeake Bay Critical Area? Yes ☐ No ☒

If so, what is the Critical Area Land Use designations: \_\_\_\_\_

Is this request the result of a zoning enforcement investigation? Yes ☐ No ☒

Is this request within one (1) mile of any incorporated town limits? Yes ☒ No ☐

## Request

Pursuant to section 267-41(D)(5), Harford County Government seeks a variance from the requirements of the Code to construct an addition to the existing County Detention Center, needed due to population growth and program demands. The expanded structure will impact on the Natural Resources District on the property, and a variance is sought for this reason.

## Justification

Extensive study has demonstrated that enlargement of the Detention Center is a vital public safety measure that the County must make as its population increases. Consultants, working with the Sheriff's Office, have determined that expansion at the current site best serves the public interest in terms of cost, efficiency, safety and security. The property is already in use as a Detention Center, the NRD has already been disturbed at this location, and this Board has previously granted some of the areas of NRD variance that are necessary. See attached pages for more detail.

*If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)*

## **APPLICATION FOR ZONING VARIANCE**

The Harford County Sheriff's Office is requesting a variance of the NRD zoning requirements of the Code in order to expand the capacity of the County Detention Center, a structure that already exists at 1030 N. Rock Spring Road in Bel Air, Maryland.

### ***Background Information***

Harford County established and maintains a local correctional facility known as the "Harford County Detention Center." (Exhibit 1) The Sheriff of Harford County is the "managing official" of the facility, and under State law, he "is responsible for the safekeeping and care of each inmate...detained in or sentenced to the local correctional facility..." MD Code Ann., Correctional Serv. Art., §§11-103, 11-201. Included in this responsibility is the provision of food, board and medical care. MD Code Ann., Correctional Serv. Art., §11-203.

The existing Detention Center was constructed in 1972 with a capacity of 140 occupants, with additional dormitory housing built in 1984, increasing the capacity to 264. In 1992 existing work areas were converted to more dormitory housing, and the County undertook further expansion in 1995 which added beds and program and administrative space. The facility's current occupant capacity is 474.

In order to complete the 1995 construction, the County sought and obtained a NRD variance (Board of Appeals case no. 4430, 4/25/94; Attached as Exhibit 2). The 1994 Board of Appeals decision is noteworthy because, even at the time, there was "already significant encroachment into the NRD buffer as a result of the exiting building and parking areas," and that "further encroachment into the NRD buffer caused by the ... expansion would be insignificant and would not result in any adverse impact to the NRD

or Bynum Run.” *Id.* Testimony of witnesses from the Harford Soil Conservation District and Maryland Department of Natural Resources concurred. *Id.*

### ***Proposed Expansion of Facility***

The Sheriff of Harford County determined that additional housing, program, support and medical facility space is needed at the Detention Center, both currently and in light of anticipated population growth. (*See Exhibit 3*) The current capital project plan includes:

- Construction of four new 48 bed medium security units, and eight new 12-bed maximum security units;
- Construction of program and support space to accommodate increased occupancy;
- Repair and renovation of existing building deficiencies;
- Construction of additional parking areas to accommodate increased staff and visitor population. (*See Exhibit 4*)

Harford County commissioned a feasibility study, completed by Crabtree, Rohrbaugh & Associates in 2005 examining the range of possible solutions to meet the needs projected by the Sheriff’s Office. The study (1) identified and verified the current and projected needs of the Detention Center; (2) examined alternative solutions; and (3) recommended a preferred solution, defined as “Option 1.” (*Exhibit 5*).

Implementation of Option 1 will impact on the adjacent NRD buffer, as would all of the other options, except for a proposal to completely relocate the facility, which is cost prohibitive. Accordingly, the Harford County Sheriff requests this variance.

### ***Extent of Variance Requested***

A Preliminary Environmental Assessment describes the extent and nature of the environmental impact of the proposed project, including an evaluation of the incursion on the NRD. (Exhibit 6).

### ***Justification for the Request***

This request for variance is reasonable and should be granted for the following reasons, which will be further explained by witnesses who will appear at the hearing:

- The property at issue is unique because it is the site of the existing Detention Center;
- The property is unique in that it includes a stream, the Rt 1 bypass, unusual topography, and forested areas so as to limit developable area;
- Because the acreage of the site is limited, and to mitigate the environmental impact, the proposed design calls for vertical stacking;
- Because the site is limited in size, the footprint of the new addition will be largely kept in previously disturbed area & impervious parking lot;
- The Board has previously granted a NRD variance for this site;
- Appropriate construction measures will be taken to eliminate/mitigate impacts to wetlands, and streams;
- The project plan includes armoring of the stream bank which will improve downstream water quality by reducing erosion & sediment during high water flows;
- During the preliminary design, the building footprint was moved approximately 60 feet west to minimize the floodplain impact;
- During the design process, the pedestrian walk from new parking area was relocated to run in a previously disturbed area alongside the existing entry road instead of using a direct route requiring new disturbance and a stream crossing;
- The existing site's storm runoff has resulted in erosion channels, and this project will correct drainage issues and improve downstream water quality;

- The new access road is necessary to provide safety and security for the facility and is designed to produce minimal impact on the environment of the site;
- The new access road will be located in previously disturbed areas of a storm water management pond and underground sewer;
- Because of the topography and the current structure occupying the site are unique a literal enforcement of the NRD code provisions is impractical and would create an undue hardship on the County, in that construction would be impossible;
- The variance is not substantially detrimental to the adjacent properties and will not impair the purpose of the Code because the site is already in use for the purposes described herein;
- Denial of the request for variance would be contrary to the public interest because it would prohibit the expansion which is needed to ensure the safety and well-being of the County and its residents.

**DAVID R. CRAIG**  
HARFORD COUNTY EXECUTIVE

**LORRAINE COSTELLO**  
DIRECTOR OF ADMINISTRATION



**C. PETE GUTWALD**  
DIRECTOR OF PLANNING & ZONING

## HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

May 8, 2007

### STAFF REPORT

### **BOARD OF APPEALS CASE NO. 5594**

**APPLICANT/OWNER:** Harford County Sheriff/Harford County Government  
220 South Main Street, Bel Air, Maryland 21014

**REPRESENTATIVE:** Karen J. Kruger  
220 South Main Street, Bel Air, Maryland 21014

**LOCATION:** 1030 N. Rock Spring Road  
Tax Map: 40 / Grid: 3F / Parcel: 68  
Election District: Third (3)

**ACREAGE:** 12.08 acres

**ZONING:** CI/Commercial Industrial

**DATE FILED:** March 14, 2007

**HEARING DATE:** May 23, 2004

### **APPLICANT'S REQUEST and JUSTIFICATION:**

See ATTACHMENT 1.

### **CODE REQUIREMENTS:**

The Applicants are requesting a variance pursuant to Section 267-41D(5) and Section 267-41D(6) of the Harford County Code to construct an addition to the existing Harford County Detention Center within the Natural Resource District (NRD) in the CI/Commercial Industrial District. The Applicants are also proposing to reconfigure the driveway and provide additional parking that will also impact the NRD.

*Preserving Harford's past; promoting Harford's future*

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Section 267-41D(5) of the Harford County Code reads:

- (5) *Conservation requirements. The following conservation measures are required within this district:*
- (a) *All development shall minimize soil disturbance during development and shall reduce soil erosion and sedimentation. When developing site plans, consideration shall be given to maintaining the existing drainage ways within the Natural Resources District.*
  - (b) *Clearing or removal of natural ground cover and vegetation in preparation for development shall be minimized. Site development shall be clustered or designed in such a manner to preserve large contiguous tracts of woodland. Clearing of woodlands shall not reduce the area coverage of trees below seventy percent (70%). Along streams, a buffer with minimum width of fifty (50) feet, plus four (4) feet for each one percent increase in slope, measured from the water's edge, shall be provided. Trees within the buffer may be harvested to remove diseased, insect-damaged or fire-damaged trees to salvage the same or reduce potential stream blockage due to fallen timber. Essential access roads may be permitted to traverse the buffer.*
  - (c) *Sensitive environmental areas, including significant/special natural features, significant wildlife habitats, saturated soils, highly erodible soils and designated scenic area shall not be disturbed during any development.*
  - (d) *Any land in excess of twenty-five percent slope for an area of forty thousand (40,000) square feet or more shall not be cleared of natural ground cover or vegetation in preparation for development, except for necessary road and utilities. Not more than thirty percent (30%) of any land in excess of fifteen percent (15%) slope and less than twenty-five percent (25%) slope shall be cleared of natural ground cover or vegetation in preparation for development.*
  - (e) *Nontidal wetlands shall not be disturbed by development. A buffer of at least seventy-five (75%) feet shall be maintained in areas adjacent to wetlands.*

Section 267-41(6) of the Harford County Code reads:

*Variances. The Board may grant a variance to Subsection D(3), (4) or (5) of the Natural Resources District regulations upon a finding by the Board that the proposed development will not adversely affect the Natural Resources District. Prior to rendering approval, the Board shall request advisory comments from the Zoning Administrator, the Soil Conservation Service and the Department of Natural Resources.*

**LAND USE and ZONING ANALYSIS:**

Land Use – Master Plan:



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The Applicant's property is located on the east side of Rock Spring Road (MD Route 924) approximately 500-feet north of North Avenue. A location map and a copy of the Applicant's site plan are enclosed with the report (Attachments 2 and 3).

The subject property is located within the Development Envelope. The predominant land use designation in the area of the subject property is Medium Intensity. A Community Center is located to the north of the subject property and the Town of Bel Air is located to the south. The Natural Features Map reflects Stream Systems. The subject property is designated as Medium Intensity which is defined by the 2004 Land Use Plan as:

*Medium Intensity - Areas within the Development Envelope where residential development is the primary land use. Density ranges from 3.5 to 7.0 dwelling units per acre. Grocery stores, variety stores and other commercial uses are examples of some of the more intensive uses associated with this designation.*

Enclosed with the report are copies of portions of the 2004 Land Use Map and the Natural Features Map (Attachments 4 and 5).

### Land Use – Existing:

The existing land uses in this area of the County are generally consistent with the 2004 Master Plan. Residential land uses include single-family dwellings, apartments, townhouses and condominiums. Commercial uses include individual retail, shopping centers, gas stations, convenience stores and restaurants. Institutional uses include churches, cemeteries and the Detention Center.

The subject property is an irregularly shaped parcel and consists of approximately 12.08 acres. Harford County Government owns four other parcels adjacent to the subject property. The impacts to the NRD are limited to only one (Parcel 68) of the five parcels owned by Harford County. The property is bordered to the north by the northbound exit ramp to the US Route 1 Bypass and to the east by open space parcels owned by the Irwin's Choice and Village Green communities. MD Route 924 borders the subject property to the west.

The subject property is constrained by environmentally sensitive areas in the form of Bynum Run, a smaller tributary stream, and associated non-tidal wetlands and 100-Year Floodplain. The tributary stream is highly eroded and continues to erode further during large storm events. The topography of the area ranges from rolling to steep especially near the stream valleys. The topography of the subject property varies significantly throughout the property. Enclosed with the report is a copy of the topography map and the aerial photograph (Attachments 6 and 7).

The Detention Center was originally constructed during the early 1970's and was enlarged and renovated three times since its initial construction. The most recent expansion occurred in 1995 and included the construction of additional dormitory housing and administrative space. The Board of Appeals granted the County a variance to disturb portions of the NRD in order to

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complete the 1995 expansion (Board of Appeals Case No. 4430: April 25, 1994). The Applicant's site plan shows the areas of proposed NRD impacts as well as those areas that were subject to the previous variance request. It is important to note that the Applicant's previously proposed an expansion on the south side of the building. However, the construction was never completed in this area. A sewer line was subsequently constructed in the area of the proposed expansion. The construction of the sewer line caused disturbance to the NRD.

The Applicants are proposing to mitigate their impacts to the NRD by realigning the stream channel and armoring the stream bank. These measures will enhance the stream and reduce the amount of erosion that is currently occurring during storm events. Additionally, these measures will improve water quality and reduce sediment and erosion from entering Bynum Run, a major Harford County tributary. The Applicants will be required to obtain all Local, State and Federal approvals and permits for impacts to the non-tidal wetlands and 100-Year Floodplain.

The facility's current occupant capacity is 474. The building is constructed of steel, split face block and brick. The facility is surrounded with high fencing and razor wire typical of a correctional facility. Access is obtained via an entrance from MD Route 924 approximately 500-feet north of North Avenue. There are parking areas located along the existing driveway. There are also open grassed areas that are used for parking due to the lack of spaces for the increase in the inmate population, staff, and visitors. It is important to note that most of the parking that is occurring in the grassed areas was previously disturbed and is located within the NRD. Enclosed with the report are site photographs along with an enlargement of the aerial photograph (Attachments 8 and 9).

The Applicants are proposing the construction of four new 48-bed medium security units, and eight new 12-bed maximum security units. The construction will also include program and support space to accommodate the increased occupancy. Additional parking areas will also be constructed to accommodate the increase in staff and visitors.

### Zoning:

The zoning classifications in the area are consistent with the 2004 Master Plan as well as the existing land uses. Residential zoning ranges from R1 to R3/Urban Residential Districts. Commercial zoning ranges from B1/Neighborhood Business District to B2/Community Business District. The five parcels that constitute the Harford County Detention Center and the adjacent North Avenue Professional Center are zoned CI/Commercial Industrial. Enclosed with the report is a copy of the Zoning Map (Attachment 10).

### SUMMARY:

The applicants are requesting a variance pursuant to Section 267-41D(5) of the Harford County Code to construct an addition that impacts the Natural Resource District.

Section 267-41D(5) of the Code reads:

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(5) *Conservation requirements. The following conservation measures are required within this district:*

(a) *All development shall minimize soil disturbance during development and shall reduce soil erosion and sedimentation. When developing site plans, consideration shall be given to maintaining the existing drainage ways within the Natural Resources District.*

The majority of the construction is proposed within areas of the subject property that were previously disturbed. These include the areas of the existing parking lots, stormwater management pond and the area where a new sewer line was constructed. The Applicants will be required to obtain a grading permit and provide sediment and erosion control in accordance with County and State regulations. The Applicants are proposing to improve and enhance the existing drainage ways by reconfiguring the channels and stabilizing the stream banks. This will improve water quality and reduce the amount of erosion and sediment flowing into Bynum Run. The Applicants will be required to obtain all Local, State and Federal approvals and permits for impacts to the non-tidal wetlands and 100-Year Floodplain.

(b) *Clearing or removal of natural ground cover and vegetation in preparation for development shall be minimized. Site development shall be clustered or designed in such a manner to preserve large contiguous tracts of woodland. Clearing of woodlands shall not reduce the area coverage of trees below seventy percent (70%). Along streams, a buffer with minimum width of fifty (50) feet, plus four (4) feet for each one percent increase in slope, measured from the water's edge, shall be provided. Trees within the buffer may be harvested to remove diseased, insect-damaged or fire-damaged trees to salvage the same or reduce potential stream blockage due to fallen timber. Essential access roads may be permitted to traverse the buffer.*

The Applicants are proposing to construct portions of the building, drive aisles, and parking lots within the NRD which will require the removal of approximately 1-acre of existing forest. The clearing will not result in the reduction of forest coverage below 70%.

(c) *Sensitive environmental areas, including significant/special natural features, significant wildlife habitats, saturated soils, highly erodible soils and designated scenic area shall not be disturbed during any development.*

The proposed expansion of the Detention Center will impact the tributary stream, non-tidal wetlands and 100-Year Floodplain. As stated above, the channel and embankment of the existing stream has become eroded from heavy storm events. The mitigation proposed by the Applicants will improve and enhance the stream. The mitigation for impacts to the non-tidal wetlands will be determined by the Maryland Department of the Environment (MDE) and/or the U.S. Army Corps of Engineers (COE). The Applicants shall comply with Chapter 131 of the

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Harford County Code, entitled, "Floodplain Management Program" during the development of this project.

*(d) Any land in excess of twenty-five percent slope for an area of forty thousand (40,000) square feet or more shall not be cleared of natural ground cover or vegetation in preparation for development, except for necessary road and utilities. Not more than thirty percent (30%) of any land in excess of fifteen percent (15%) slope and less than twenty-five percent (25%) slope shall be cleared of natural ground cover or vegetation in preparation for development.*

There are no slopes in excess of 15% on the subject property.

*(e) Nontidal wetlands shall not be disturbed by development. A buffer of at least seventy-five (75%) feet shall be maintained in areas adjacent to wetlands.*

The proposal will require impacts to the non-tidal wetlands and 75-foot NRD buffer. The impacts to the stream and non-tidal wetlands will require permits from the MDE and/or COE. Those agencies will determine the required mitigation for impacts to the non-tidal wetlands.

Section 267-41(6):

*Variances. The Board may grant a variance to Subsection D(3), (4) or (5) of the Natural Resources District regulations upon a finding by the Board that the proposed development will not adversely affect the Natural Resources District. Prior to rendering approval, the Board shall request advisory comments from the Zoning Administrator, the Soil Conservation Service and the Department of Natural Resources.*

The Department of Planning and Zoning forwarded a copy of the Application to the Soil Conservation District (SCD) and the Maryland Department of the Environment (MDE). The MDE did not provide any comments on the proposal. The SCD provided comments in a letter dated May 11, 2007 (Attachment 11).

A copy of the Application was forwarded to the Town of Bel Air for review and comment. In a letter dated March 27, 2007, the Town states that they do not oppose the variance request provided that impacts to the environmentally sensitive areas are minimized (Attachment 12).

A copy of the Application was also forwarded to the Harford County Health Department for review and comment. The Health Department does not oppose the variance request and will provide further comments when a site plan is submitted for review through the Development Advisory Committee (DAC) (Attachment 13).

The Department finds that the subject property is unique. This request is similar in nature to the previous request under Board of Appeals Case No. 4430 in 1994. The developable area of the subject property is extremely limited due to the presence of environmentally sensitive areas in

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the form of Bynum Run, a tributary stream, and their associated non-tidal wetlands and 100-Year Floodplain. The Detention Center cannot be expanded to the east due to the presence of Bynum Run and its associated Floodway and 100-Year Floodplain. The close proximity of the northbound exit ramp to the US Route 1 Bypass precludes expansion of the facility to the north. Therefore, the proposed expansion of the Detention Center is limited to those areas on the south side of the facility which are within the Natural Resource District (NRD).

The majority of the proposed construction will be located within previously disturbed areas of NRD. These areas include the existing parking lot, driveways, maintained lawn, and the area where a new sewer line was recently constructed. New impacts to undisturbed areas of NRD will be limited. The Applicants are proposing to realign and restore the stream channel and armor the embankment to prevent erosion. The Applicants will also be required to provide sediment and erosion control and meet the 2000 Design Manual for stormwater management. Mitigation for impacts to the non-tidal wetlands will also be required from MDE and COE. The restoration of the stream and addition of stormwater management will provide better water quality for the overall site and protect Bynum Run.

The proposed expansion of the Detention Center is necessary to accommodate the increased inmate population, increase in staff, and increase in visitors. The proposal will not have an adverse impact on the NRD. In fact, the proposed stream channel realignment, restoration, and stormwater management will have a positive impact by reducing the amount of erosion and sediment entering Bynum Run.

### **RECOMMENDATION and or SUGGESTED CONDITIONS:**

The Department of Planning and Zoning recommends that the request be approved subject to the following conditions:

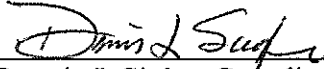
1. The Applicants shall obtain all necessary approvals and permits from the Maryland Department of the Environment (MDE) and/or U.S. Army Corps of Engineers for impacts to the stream and non-tidal wetlands.
2. The proposal shall comply with Chapter 131 of the Harford County Code, entitled, "Floodplain Management Program".
3. A detailed site plan shall be submitted for review and approval through the Development Advisory Committee (DAC).
4. A detailed landscaping and lighting plan shall be submitted to the Department of Planning and Zoning for review and approval prior to the issuance of a building permit. All lighting shall be directed down and away from the residences on the west side of MD Route 924. The landscaping plan shall specifically address screening of the parking areas along MD Route 924.

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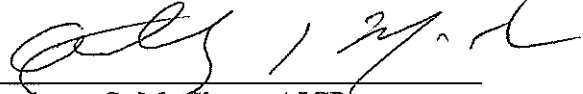
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Dennis J. Sigler, Coordinator  
Zoning & Board of Appeals Review



Anthony S. McClune, AICP  
Deputy Director, Planning and Zoning

DJS/ASM/jf